

Michael Fuller, Oregon Bar No. 09357
Trial Attorney for Plaintiff
OlsenDaines, PC
9415 SE Stark St., Suite 207
Portland, Oregon 97216
Email: mfuller@olsendaines.com
Office: (503) 274-4252
Fax: (503) 362-1375
Cell: (503) 201-4570

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

REBECCA DERRA,

Case No. 1:13-cv-663

Plaintiff,

v.

**COMPLAINT FOR UNFAIR DEBT
COLLECTION AND INTRUSION UPON
SECLUSION**

**ACCOUNT CONTROL TECHNOLOGY
INC.,** a California business corporation.

JURY TRIAL DEMANDED

**ORS 646.639 *et seq.*
15 U.S.C. § 1692 *et seq.***

Defendant.

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OlsenDaines, PC
9415 SE Stark St., Ste 207
Portland, Oregon 97216
Telephone (503)274-4252
Facsimile (503) 362-1375

1.

JURISDICTION AND THE PARTIES

This is a civil action brought under Oregon common law, the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.* and the Oregon Unlawful Debt Collection Practices Act (“OUDCPA”), ORS 646.639 *et seq.*

2.

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1367 because the FDCPA is federal law, Rebecca Derra (“plaintiff”) is an Oregon resident, Account Control Technology Inc. (“defendant”) is a California corporation, and the amount in controversy exceeds \$75,000, including statutory damages, actual damages, punitive damages, attorney’s fees and costs.

3.

Venue is proper in this district because the majority of the acts and transactions occurred here, plaintiff resides here, and defendant collects debts here.

4.

Plaintiff resided in Klamath County, Oregon during all times material and is a “person” and a “consumer” as defined by the OUDCPA at ORS 646.639(1)(h) and (a).

5.

Plaintiff is also a “consumer” as defined by the FDCPA at 15 U.S.C. § 1692a(3).

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6.

Defendant regularly collects defaulted student loan debts in Oregon and is a “person” and “debt collector” as defined by the OUDCPA at ORS 646.639(1)(h) and (g). Defendant is also a “debt collector” as defined by the FDCPA at 15 U.S.C. § 1692a(6).

7.

Defendant attempts to collect plaintiff’s alleged student loan obligation constituting a “debt” as defined by the OUDCPA at ORS 646.639(1)(e).

8.

FACTUAL ALLEGATIONS

In or around September 2011, plaintiff paid off her student loans.

9.

In or around 2012, defendant began harassing plaintiff, attempting to collect a student loan debt she didn’t owe.

10.

Plaintiff told defendant she paid off her student loans and didn’t owe the debt it was harassing her about.

11.

Plaintiff told defendant the promissory note it was harassing her about had a signature that was not hers.

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12.

In October 2012, plaintiff hired an attorney to represent her with regard to her alleged account and alleged debt with defendant.

13.

Plaintiff provided defendant notice of the representation, including contact information for her attorney.

14.

Plaintiff told defendant she did not owe the alleged debt and would not pay it.

15.

Plaintiff told defendant to stop harassing her and to stop contacting her directly.

16.

Despite this, as of 2013, defendant continues harassing plaintiff directly to collect debt she doesn't owe.

17.

Defendant threatens to immediately seize and keep plaintiff's anticipated tax refunds to pay the debt she doesn't owe.

18.

Plaintiff made multiple attempts to resolve this matter without the need for a lawsuit but defendant wouldn't listen.

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19.

Sadly, as of the date of this lawsuit, defendant continues to harass and inconvenience plaintiff directly in attempts to collect debt.

20.

Defendant knows and should know its calls constitute telephonic harassment because plaintiff told it as much over the phone.

21.

Defendant knew and should have known it could not immediately seize and keep plaintiff's anticipated tax refunds.

22.

Defendant's choice to keep calling plaintiff's phone number constitutes intentional telephonic harassment.

23.

As a direct and proximate result of defendant's malicious and unlawful debt collection and telephonic harassment, plaintiff suffers severe ongoing stress, frustration, helplessness, and other negative emotions to be proved at trial.

24.

Plaintiff's emotional distress is severe and substantial. Her stress levels have significantly elevated because of defendant's continued harassment.

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25.

As a direct and proximate result of defendant's malicious and unlawful debt collection and telephonic harassment, plaintiff suffers actual damages in the form of time spent and attorney's fees and costs.

26.

Plaintiff is entitled to and so demands a trial by jury.

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27.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(OUDCPA)

(ORS 646.641)

28.

Plaintiff re-alleges the above by reference.

29.

Even assuming the debt defendant attempted to collect was valid, defendant injured plaintiff through its willful and malicious use of unlawful collection practices as detailed above, violating the OUDCPA, specifically ORS 646.639(2)(e) and (k).

30.

As a result of defendant's willful and malicious use of unlawful collection practices, plaintiff is entitled to the greater of actual damages or \$200, punitive damages, reasonable attorney's fees and costs, injunctive relief and declaratory relief pursuant to ORS 646.641.

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31.

SECOND CLAIM FOR RELIEF

(FDCPA)

(15 U.S.C. § 1692k)

32.

Plaintiff re-alleges the above by reference.

33.

Defendant injured plaintiff through its willful unlawful collection practices as detailed above, violating the FDCPA, specifically 15 U.S.C. § 1692c, d, e, and f.

34.

As a result of defendant's willful unlawful collection practices, plaintiff is entitled to the greater of actual damages or \$1,000 and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k.

35.

THIRD CLAIM FOR RELIEF

(INTRUSION UPON SECLUSION)

36.

Plaintiff re-alleges the above by reference.

37.

Defendant intentionally intruded upon the solitude and seclusion of plaintiff by choosing to call her after she demanded the calls stop.

38.

Defendant intentionally intruded upon the solitude and seclusion of plaintiff by choosing to telephonically harass her.

39.

Defendant's intentional telephonic harassment is highly offensive and directly caused plaintiff emotional distress.

40.

Defendant's malicious telephonic harassment has no place in civilized American society. Defendant's conduct constituted an extraordinary transgression of socially tolerable behavior based on the social standards of Oregonians.

41.

As a result of defendant's malicious intrusion upon plaintiff's solitude and seclusion, plaintiff is entitled to declaratory relief, punitive damages, actual damages, and reasonable attorney's fees and costs.

42.

Plaintiff is entitled to and so demands a trial by jury.

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WHEREFORE, plaintiff seeks judgment against defendant as follows:

- a. An order enjoining defendant from further harassing plaintiff;
- b. An order declaring plaintiff does not owe defendant a debt;
- c. An order holding defendant in violation of the laws governing debt collection;
- d. An award of actual damages, statutory damages, and reimbursement of plaintiff's reasonable attorney's fees and costs;
- e. An award of punitive damages;
- f. For other such relief as this Honorable Court deems just and proper.

DATED: April 18, 2013

/s/ Michael Fuller

Michael Fuller, Oregon Bar No. 09357
Trial Attorney for Plaintiff
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9415 SE Stark St., Suite 207
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